
Book Review

DISPUTE BOARD MANUAL: A GUIDE TO BEST PRACTICES AND PROCEDURES

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Dispute Board Manual: A Guide to Best Practices and Procedures, by Dispute Resolution Board Foundation (Graham Easton and Ann Russo, Lead Editors), SPARK Publications, 2019: ISBN: 9781943070688.

This slim volume was created by the Dispute Resolution Board Foundation “to provide an authoritative explanation of the Dispute Board process, and to serve as a reference guide for users of the process throughout the world”. The Dispute Resolution Board Foundation is an international non-profit organisation set up in 1996 dedicated to promoting the avoidance and resolution of disputes worldwide using the unique and proven Dispute Board method.

The editors and contributors to this book comprise leading Dispute Board practitioners around the world and accordingly the book is relevant to the various ways in which Dispute Boards are implemented in different jurisdictions. The lead editors are Graham Easton, a leading international arbitrator and Dispute Board practitioner and Ann Russo, the CEO of the Dispute Resolution Board Foundation. Australia has made significant contributions to international Dispute Board best practice by its successful promotion of dispute avoidance through the use of Dispute Boards and its influence in the Dispute Resolution Board Foundation, including recent Presidents and the formation of Region 3 (Australia and New Zealand). The welcome emphasis on a Dispute Board’s role in dispute avoidance in this manual is a significant distinguishing feature of this book from previous editions and is perhaps indicative of Australian developments in the modern practice of Dispute Boards.

The book will be valuable for those who are unfamiliar with the concept and application of Dispute Boards, as well as those involved in preparing contracts, interacting with Dispute Boards during the course of a project, and prospective and existing members of Dispute Boards.

The book’s brevity is perhaps its greatest strength, as it succinctly addresses all of the important issues relating to Dispute Boards: their history, what they are, how they are established, and the processes involved in their implementation. The book is divided into four sections. The introductory Sections 1 and 2 will probably be skipped by those who are familiar with the concept of Dispute Boards and convinced of their value and efficacy. Section 1 is on the background of Dispute Boards with chapters on a brief history, the case for Dispute Boards and a comparison of Dispute Boards with other Alternative Dispute Resolution processes. Section 2 discusses Dispute Board concepts, covering the Dispute Board process, the qualities and attributes of Dispute Board members and the Dispute Resolution Board Foundation Code of Ethical Conduct. Dispute Board Members’ adherence to this Code is essential to maintaining their independence and impartiality which is fundamental to the acceptance of a Dispute Board.

The practical guidance on the operation of Dispute Boards is in Section 3 establishing Dispute Boards and Section 4 implementation and process. The chapters in each of these sections provide concise practical guidance on all of the relevant issues involved in the establishment and operation of Dispute Boards.

The various types of Dispute Boards as implemented in different countries are discussed in Chapter 7; specific requirements for Dispute Boards in FIDIC (International Federation of Consulting Engineers) contracts and in PPP (public private partnership) contracts are discussed in separate chapters. Lawyers preparing contract documents will find Chapter 8 on best practice guidelines for contract documents particularly valuable. The significant issue of costs and fees is covered in Chapter 11. As the cost of Dispute Boards is perceived to be one of the biggest stumbling blocks to their more widespread implementation, this chapter is perhaps the most important in the book. It not only explains the different cost components and types of fee structures involved in the operation of a Dispute Board, but also

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provides detailed guidance on typical fee structures and rates in various countries where Dispute Boards are used. A general method for estimating the cost of a Dispute Board is provided, illustrated with several worked examples. This chapter ably counteracts the fixation on the cost of Dispute Boards by contrasting the value they deliver for a very small percentage of the project cost.

Section 4 provides in eight commendably brief chapters detailed guidance on the implementation and process of Dispute Boards in approximately 40 pages:

- nomination and appointment of Dispute Board members;
- dispute avoidance and management;
- referral of a dispute to the Dispute Board;
- prehearing procedures and document preparation;
- hearing procedures;
- recommendations and decisions;
- implementations of the Dispute Board's findings; and
- review, termination or renewal of the Dispute Board.

These chapters contain clear and practical guidance on best practice in Dispute Board operations. They will be invaluable for Dispute Board members as well as employer and contractor participants in the Dispute Board process.

A helpful Glossary provides a definition of the terms used. This is followed by a comprehensive index. An indication of the book's emphasis on dispute avoidance is the eight entries on this topic in the index – there were none in the 2007 Dispute Resolution Board Foundation manual.

This eminently readable book provides an compelling introduction to Dispute Boards for those who are unfamiliar with the concept or are unconvinced of their value. It explains the practical operation of well tried and tested procedures that have been proven to materially contribute to successful projects – by assisting the contracting parties to avoid disputes or resolve them efficiently and economically if they cannot be avoided. It is an essential reference for anyone involved in the implementation or operation of Dispute Boards as it provides detailed guidance on current best international practice.

This book is an excellent contribution to the literature on Alternative Dispute Resolution that will materially assist in a better understanding of the role and operation of Dispute Boards and in promoting and maintaining high standards by Dispute Board Members. Hopefully it will lead to the more widespread adoption of Dispute Boards in Australia, particularly in those States that have not yet realised their value in achieving successful projects.

The book is available as a free download from the Dispute Resolution Board Foundation website (www.drfb.org) or in hard copy from Amazon.